

FEDERAL ACQUISITION REGULATION (FAR)

The Federal Acquisition Regulation (FAR) was established to codify uniform policies for acquisition of supplies and services by executive agencies. It is issued and maintained jointly under the statutory authorities granted to the Secretary of Defense, Administrator of General Services, and the Administrator, National Aeronautics and Space Administration, known as the Federal Acquisition Regulatory Council (FAR Council). Overall statutory authority is found at chapters 11 and 13 of title 41 of the United States Code.

Pursuant to Executive Order 12866, "Regulatory Planning and Review" (September 30, 1993) and Executive Order 13563, "Improving Regulation and Regulatory Review" (January 18, 2011), the Regulatory Plan and Unified Agenda provide notice about the FAR Council's proposed regulatory and deregulatory actions within the Executive Branch. The Fall 2021 Unified Agenda consists of forty-seven (48) active agenda items.

Rulemaking Priorities

The FAR Council is required to amend the Federal Acquisition Regulation to implement statutory and policy initiatives. The FAR Council prioritization is focused on initiatives that:

- Promote the country's economic resilience, including addressing COVID-related issues.
- Tackle the climate change emergency.
- Support equity and underserved communities; and
- Support national security efforts, especially safeguarding Federal Government information and information technology systems.

Rulemaking that Promotes Economic Resilience

FAR Case 2021-021, "Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors," will promote economy and efficiency in procurement by implementing the safeguard requirements of Executive Order 14042, "Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors" dated September 9, 2021, and the guidance published by the Safer Federal

Workforce Task Force. Contracting with sources that provide adequate safeguards to their workers will decrease worker absence, reduce labor costs and therefore, improve the efficiency of contractors and subcontractors performing on Federal procurements.

FAR Case 2021-014, "Increasing the Minimum Wage for Contractors," will increase efficiency and cost savings in the work performed by parties who contract with the Federal Government by increasing the hourly minimum wage paid to those contractors in accordance with Executive Order 14026, "Increasing the Minimum Wage for Federal Contractors" dated April 27, 2021, and Department of Labor regulations at 29 CFR part 23.

FAR Case 2021-008, Amendments to the FAR Buy American Act Requirements, will strengthen the impact of the Buy American Act through amendments, such as increasing the domestic content threshold and enhancing price preference for critical domestic products, in accordance with section 8 of Executive Order 14005, "Ensuring the Future is Made in All of America by All of America's Workers."

Rulemaking that Tackles Climate Change

FAR Case 2021-015, "Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk," will consider requiring major Federal suppliers to publicly disclose greenhouse gas emissions and climate-related financial risk, and to set science-based reductions targets per section 5(b)(i) of Executive Order 14030, "Climate-Related Financial Risk."

FAR Case 2021-016, "Minimizing the Risk of Climate Change in Federal Acquisitions," will consider amendments to ensure major agency procurements minimize the risk of climate change and require consideration of the social cost of greenhouse gas emissions in procurement decisions per section 5(b)(ii) of Executive Order 14030, "Climate-Related Financial Risk."

Rulemaking that Supports Equity and Underserved Communities

FAR Case 2021-010, “Subcontracting to Puerto Rican and Other Small Businesses,” will provide contracting incentives to mentors that subcontract to protegee firms that are Puerto Rican businesses in accordance with section 861 of the National Defense Authorization Act of Fiscal Year 2019 as implemented in the Small Business Administration final rule published October 16, 2020.

FAR Case 2021-012, 8(a) Program, will implement regulatory changes made to the 8(a) Business Development Program by the Small Business Administration, in its final rule published in the Federal Register on October 16, 2020, which provided clarifications on offer and acceptance, certificate of competency and follow-on requirements.

FAR Case 2020-013, “Certification of Women-Owned Small Businesses,” will implement the statutory requirement for certification of women-owned and economically disadvantaged women-owned small businesses participating in the Women-Owned Small Business Program, as implemented by the Small Business Administration in its final rule published May 11, 2020.

FAR Case 2019-007, “Update of Historically Underutilized Business Zone Program,” will implement SBA’s regulatory changes issued in its final rule published on November 26, 2019. The regulatory changes are intended to reduce the regulatory burden associated with the Historically Underutilized Business Zone (HUBZone) Program.

Rulemakings That Support National Security

FAR Case 2021-017, “Cyber Threat and Incident Reporting and Information Sharing,” will increase the sharing of information about cyber threats and incident information and require certain contractors to report cyber incidents to the Federal Government to facilitate effective cyber incident response and remediation per sections 2(b), (c), and (g)(i) of Executive Order 14028, “Improving the Nation’s Cybersecurity.”

FAR Case 2021-019, "Standardizing Cybersecurity Requirements for Unclassified Information Systems," will standardize cybersecurity contractual requirements across Federal agencies for unclassified information systems per sections 2(i) and 8(b) of Executive Order 14028, Improving the Nation's Cybersecurity.

FAR Case 2020-011, "Implementation of Issued Exclusion and Removal Orders," will implement authorities authorized by section 2020 of the SECURE Technology Act for the Federal Acquisition Security Council (FASC), the Secretary of Homeland Security, the Secretary of Defense and the Director of National Intelligence to issue exclusion and removal orders. These exclusions and removal orders are issued to protect national security by excluding certain covered products, services, or sources from the Federal supply chain.

Dated: September 8, 2021.

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